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PAUL DAVIS
HAYNES & DAVIS
2180 SAND HILL ROAD SUITE 310
MENLO PARK CA 94025-6935

HUT-110-0
EXAMINER

1501
ART UNIT

PAPER NUMBER

04/15/97

DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 1-13-97

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 23, 24, 26-35 is/are pending in the application.

Of the above, claim(s) none is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 23, 24, 26-35 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

Art Unit: 1501

1. Claims 27 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 27 and 30 recite the limitation "in the membrane" . There is insufficient antecedent basis for this limitation in the claim.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

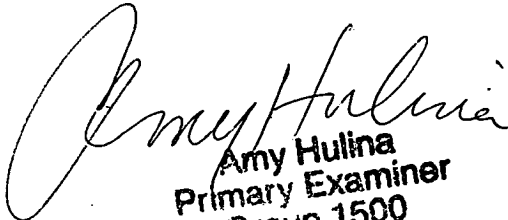
3. Claims 23,24, rejected under 35 U.S.C. 102(e) as being anticipated by Lax et al (5,458,596).

Lax et al disclose a method for contracting collagen soft tissue. The collagen soft tissue is contracted to a desired shrinkage level without dissociation and breakdown of the collagen structure and without ablating the surrounding tissue. The method can be used to contract collagen in the shoulder, spine, in cosmetic applications and the like. The method comprises delivering RF energy in a controlled amount to the collagen tissue. The energy is delivered by way of RF electrodes and electrolytic solution (see col. 4, lines 33-34). The RF energy can be delivered through an endoscopically guided handpiece in the temperature range of 43 to 90

Art Unit: 1501

degrees C (col. 4, lines 63-67). Lax et al teach that use of a cooled solution to deliver the thermal energy to the tissue, instead of direct contact with the conductive surface, provides a more even thermal gradient in the tissue (col. 8, lines 58-61).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy Hulina whose telephone number is (703) 308-2974.


Amy Hulina
Primary Examiner
Group 1500

AH

April 14, 1997